



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,662	07/02/2003	Peter D. Rimback	483345-538	7236

7590

09/02/2005

Michael A. Forhan, Esq.
Thompson Hine LLP
Suite 700
10 W. Broad St.
Columbus, OH 43215-3435

EXAMINER

PUROL, SARAH L

ART UNIT

PAPER NUMBER

3634

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/613,662

Applicant(s)

RIMBACK ET AL.

Examiner

Sarah Puroi

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 35-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 and 35-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15, 18-33, 35-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malik D381225 in view of Tocci D287550. Malik teaches the device claimed including a completely knockdown arrangement between associated parts and including inner and outer rungs and horizontal support arms and hangers, all best seen in Figures 1 and 2. Absent is the teaching of vertically oriented struts. Tocci teach vertically oriented struts for the purpose of lending more stability to the overall rack structure. To modify Malik to include vertically oriented struts for the purpose of lending more structural stability, would have, in view of Tocci, been obvious to one having ordinary skill in the art at the time of the invention. Figure 2 shows---in broken lines---how a second frame can be coupled to and below a first frame. Whether the strut is either integrally formed or removably coupled to the overall structure is a matter of choice in design for the purpose of allowing or hindering (as wished) easy disassembly and or assembly. The method is considered obvious in view of the article for one having ordinary skill in the art at the time of the invention. Regarding the brace of claim 18, applicant's attention is directed to Figure 17 wherein additional horizontal members can be seen to serve as braces for connecting the three vertical portions.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malik '225 in view of Tocci '550 and further in view of Klein et al 5,855,279. Klein et al. teach

Art Unit: 3634

connector portions for coupling adjacent frames that include teeth 46 and best seen in Figure 3. To modify the combination applied to the plurality of claims below to include a tooth connection for the purpose of a more stable connection would have been obvious to one having ordinary skill in the art at the time of the invention.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Malik '225 in view of Tocci '550 and Klein et al. '279 and further in view of Ballard 5,690,239. The combination Malik '225, Tocci '550 and Klein et al. '279 teach the device absent a cover adapted to couple to a connector portion to provide a smooth outer appearance. Ballard '239 teaches a cover F to couple to a connector best seen in Figures 3 and 4 for the purpose of providing a smooth outer appearance. To provide the connectors of the combination with covers for the purpose of providing a smooth outer surface would have, in view of Ballard, been obvious to one having ordinary skill in the art at the time of the invention.


Applicant's remarks filed 5/23/05 have been carefully considered but are considered moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol whose telephone number is 571-272-6834. The examiner can normally be reached on Mon. Tue. Thurs. For general questions relating to this application please e-mail the examiner at Sarah.Purol@USPTO.GOV.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Sarah Purol
Primary Examiner
AU 3634